



House of Representatives

General Assembly

File No. 461

February Session, 2000

Substitute House Bill No. 5830

House of Representatives, April 6, 2000

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Concerning The Best Interest Of Children In Adoption Matters.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-724 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) The following persons may give a child in adoption:

4 (1) A statutory parent appointed under the provisions of section
5 17a-112, section 45a-717 or section 45a-718 may, by written agreement,
6 subject to the approval of the Court of Probate as provided in section
7 45a-727, give in adoption to any adult person any minor child of whom
8 he or she is the statutory parent; provided, if the child has attained the
9 age of twelve, the child shall consent to the agreement.

10 (2) Subject to the approval of the Court of Probate as provided in
11 section 45a-727, any parent of a minor child may agree in writing with
12 his or her spouse or with another person who shares parental

13 responsibility for the child with such parent that the spouse or other
14 person shall adopt or join in the adoption of the child [; if that parent is
15 (A) the surviving parent if the other parent has died; (B) the mother of
16 a child born out of wedlock, provided that if there is a putative father
17 who has been notified under the provisions of section 45a-716, the
18 rights of the putative father have been terminated; (C) a former single
19 person who adopted a child and thereafter married; or (D) the sole
20 guardian of the person of the child, if the other parent's] if the parental
21 rights, if any, of anyone other than the parties to such agreement have
22 been terminated.

23 (3) Subject to the approval of the Court of Probate as provided in
24 section 45a-727, the guardian or guardians of the person of any minor
25 child who is free for adoption in accordance with section 45a-725 may
26 agree in writing with a relative that the relative shall adopt the child.
27 For the purposes of this subsection "relative" shall include, but not be
28 limited to, a person who has been adjudged by a court of competent
29 jurisdiction to be the father of a child born out of wedlock, or who has
30 acknowledged his paternity under the provisions of section 46b-172a,
31 with further relationship to the child determined through the father.

32 (b) If all parties consent to the adoption under subdivisions (2) and
33 (3) of subsection (a) of this section, then the application to be filed
34 under section 45a-727 shall be combined with the consent termination
35 of parental rights to be filed under section 45a-717. An application
36 made under subdivisions (2) and (3) of subsection (a) of this section
37 shall not be granted in the case of any child who has attained the age
38 of twelve without the child's consent.

39 Sec. 2. Section 45a-727 of the general statutes, as amended by section
40 10 of public act 99-166, is repealed and the following is substituted in
41 lieu thereof:

42 (a) (1) Each adoption matter shall be instituted by filing an
43 application in a Court of Probate, together with the written agreement

44 of adoption, in duplicate. One of the duplicates shall be sent
45 immediately to the Commissioner of Children and Families.

46 (2) The application shall incorporate a declaration that to the best of
47 the knowledge and belief of the declarant there is no other proceeding
48 pending or contemplated in any other court affecting the custody of
49 the child to be adopted, or if there is such a proceeding, a statement in
50 detail of the nature of the proceeding and affirming that the proposed
51 adoption would not conflict with or interfere with the other
52 proceeding. The court shall not proceed on any application which does
53 not contain such a declaration. The application shall be signed by one
54 or more of the parties to the agreement, who may waive notice of any
55 hearing on it. For the purposes of this declaration, visitation rights
56 granted by any court shall not be considered as affecting the custody of
57 the child.

58 (3) An application for the adoption of a minor child not related to
59 the adopting parents shall not be accepted by the Court of Probate
60 unless (A) the child sought to be adopted has been placed for adoption
61 by the Commissioner of Children and Families or a child-placing
62 agency, and the placement for adoption has been approved by the
63 commissioner or a child-placing agency; (B) the placement
64 requirements of this section have been waived by the Adoption
65 Review Board as provided in section 45a-764; or (C) the application is
66 for adoption of a minor child by a stepparent or another person
67 sharing parental responsibility for the child as provided in [section
68 45a-733] subdivision (2) of subsection (a) of section 45a-724, as
69 amended by this act. The commissioner or a child-placing agency may
70 place a child in adoption who has been identified or located by a
71 prospective parent, provided any such placement shall be made in
72 accordance with regulations promulgated by the commissioner
73 pursuant to section 45a-728. If any such placement is not made in
74 accordance with such regulations, the adoption application shall not be
75 approved by the Court of Probate.

76 (4) The application and the agreement of adoption shall be filed in
77 the Court of Probate for the district where the adopting parent resides
78 or in the district where the main office or any local office of the
79 statutory parent is located.

80 (5) The provisions of section 17a-152, regarding placement of a child
81 from another state, and section 17a-175, regarding the interstate
82 compact on the placement of children, shall apply to adoption
83 placements.

84 (b) (1) The Court of Probate shall request the commissioner or a
85 child-placing agency to make an investigation and written report to it,
86 in duplicate, within sixty days from the receipt of such request. A
87 duplicate of the report shall be sent immediately to the Commissioner
88 of Children and Families.

89 (2) The report shall be filed with the Court of Probate within the
90 sixty-day period. The report shall indicate the physical and mental
91 status of the child and shall also contain such facts as may be relevant
92 to determine whether the proposed adoption will be in the best
93 interests of the child, including the physical, mental, genetic and
94 educational history of the child and the physical, mental, social and
95 financial condition of the parties to the agreement and the biological
96 parents of the child, if known. The report shall include a history of
97 physical, sexual or emotional abuse suffered by the child, if any. The
98 report may set forth conclusions as to whether or not the proposed
99 adoption will be in the best interests of the child.

100 (3) The physical, mental and genetic history of the child shall
101 include information about: (A) The child's health status at the time of
102 placement; (B) the child's birth, neonatal, and other medical,
103 psychological, psychiatric, and dental history information; (C) a record
104 of immunizations for the child; and (D) the available results of
105 medical, psychological, psychiatric and dental examinations of the
106 child. The report shall include information, to the extent known, about

107 past and existing relationships between the child and the child's
108 siblings, biological parents, extended family, and other persons who
109 have had physical possession of or legal access to the child. The
110 educational history of the child shall include, to the extent known,
111 information about the enrolment and performance of the child in
112 educational institutions, results of educational testing and
113 standardized tests for the child, and special educational needs, if any,
114 of the child.

115 (4) The adoptive parents are entitled to receive copies of the records
116 and other information relating to the history of the child maintained by
117 the commissioner or child-placing agency. The adoptive parents are
118 entitled to receive copies of the records, provided if required by law,
119 the copies have been edited to protect the identity of the biological
120 parents and any other person whose identity is confidential and other
121 identifying information relating to the history of the child. It is the
122 duty of the person placing the child for adoption to edit, to the extent
123 required by law, the records and information to protect the identity of
124 the biological parents and any other person whose identity is
125 confidential.

126 (5) The report shall be admissible in evidence subject to the right of
127 any interested party to require that the person making it appear as a
128 witness, if available, and such person shall be subject to examination.

129 (6) For any report under this section the Court of Probate may assess
130 against the adopting parent or parents a reasonable fee covering the
131 cost and expenses of making the investigation. The fee shall be paid to
132 the state or to the child-placing agency making the investigation and
133 report, provided the report shall be made within the sixty-day period
134 or other time set by the court.

135 (c) (1) Upon the expiration of the sixty-day period or upon the
136 receipt of such report, whichever is first, the Court of Probate shall set
137 a day for a hearing upon the agreement and shall give reasonable

138 notice of the hearing to the parties to the agreement, the child-placing
139 agency if such agency is involved in the adoption, the Commissioner
140 of Children and Families and to the child, if over twelve years of age.

141 (2) At the hearing the court may deny the application, enter a final
142 decree approving the adoption if it is satisfied that the adoption is in
143 the best interests of the child or order a further investigation and
144 written report to be filed, in duplicate, within whatever period of time
145 it directs. A duplicate of such report shall be sent to the commissioner.
146 The court may adjourn the hearing to a day after that fixed for filing
147 the report. If such report has not been filed with the court within the
148 specified time, the court may thereupon deny the application or enter a
149 final decree in the manner provided in this section.

150 (3) The Court of Probate shall not disapprove any adoption under
151 this section solely because of an adopting parent's marital status or
152 because of a difference in race, color or religion between a prospective
153 adopting parent and the child to be adopted or because the adoption
154 may be subsidized in accordance with the provisions of section
155 17a-117.

156 (4) The Court of Probate shall ascertain as far as possible the date
157 and the place of birth of the child and shall incorporate such facts in
158 the final decree, a copy of which shall be sent to the Commissioner of
159 Children and Families.

160 Sec. 3. Section 45a-731 of the general statutes is repealed and the
161 following is substituted in lieu thereof:

162 A final decree of adoption, whether issued by a court of this state or
163 a court of any other jurisdiction, shall have the following effect in this
164 state:

165 (1) All rights, duties and other legal consequences of the biological
166 relation of child and parent shall thereafter exist between the adopted

167 person and the adopting parent and [his] the relatives of such adopting
168 parent. Such adopted person shall be treated as if [he] such adopted
169 person were the biological child of the adopting parent, for all
170 purposes including the applicability of statutes which do not expressly
171 exclude an adopted person in their operation or effect;

172 (2) The adopting parent and the adopted person shall have rights of
173 inheritance from and through each other and the biological and
174 adopted relatives of the adopting parent. The right of inheritance of an
175 adopted person extends to the heirs of such adopted person, and such
176 heirs shall be the same as if such adopted person were the biological
177 child of the adopting parent;

178 (3) The adopted person and the biological children and other
179 adopted children of the adopting parent shall be treated, unless
180 otherwise provided by statute, as siblings, having rights of inheritance
181 from and through each other. Such rights of inheritance extend to the
182 heirs of such adopted person and of the biological children and other
183 adopted children, and such heirs shall be the same as if each such
184 adopted person were the biological child of the adopting parent;

185 (4) The adopted person shall, except as hereinafter provided, be
186 treated as if [he] such adopted person were the biological child of the
187 adopting parent for purposes of the applicability of all documents and
188 instruments, whether executed before or after the adoption decree is
189 issued, which do not expressly exclude an adopted person in their
190 operation or effect. The words "child", "children", "issue", "descendant",
191 "descendants", "heir", "heirs", "lawful heirs", "grandchild" and
192 "grandchildren", when used in any will or trust instrument shall
193 include legally adopted persons unless such document clearly
194 indicates a contrary intention. Nothing in this section shall be
195 construed to alter or modify the provisions of section 45a-257
196 concerning revocation of a will when a child is born as the result of
197 artificial insemination;

198 (5) [The] Except in the case of an adoption as provided in
199 subdivision (2) of subsection (a) of section 45a-724, as amended by this
200 act, the legal relationship between the adopted person and [his] the
201 adopted person's biological parent or parents and the relatives of such
202 biological parent or parents is terminated for all purposes, including
203 the applicability of statutes which do not expressly include such an
204 adopted person in their operation and effect. The biological parent or
205 parents of the adopted person is relieved of all parental rights and
206 responsibilities;

207 (6) [The] Except in the case of an adoption as provided in
208 subdivision (2) of subsection (a) of section 45a-724, as amended by this
209 act, the biological parent or parents and their relatives shall have no
210 rights of inheritance from or through the adopted person, nor shall the
211 adopted person have any rights of inheritance from or through [his]
212 the biological parent or parents of the adopted person and [their] the
213 relatives of such biological parent or parents, except as provided in this
214 section;

215 (7) [The] Except in the case of an adoption as provided in
216 subdivision (2) of subsection (a) of section 45a-724, as amended by this
217 act, the legal relationship between the adopted person and [his] the
218 adopted person's biological parent or parents and the relatives of such
219 biological parent or parents is terminated for purposes of the
220 construction of documents and instruments, whether executed before
221 or after the adoption decree is issued, which do not expressly include
222 the individual by name or by some designation not based on a parent
223 and child or blood relationship, except as provided in this section;

224 (8) Notwithstanding the provisions of subdivisions (1) to (7),
225 inclusive, of this section, when one of the biological parents of a minor
226 child has died and the surviving parent has remarried subsequent to
227 such parent's death, adoption of such child by the person with whom
228 such remarriage is contracted shall not affect the rights of such child to

229 inherit from or through the deceased parent and the deceased parent's
230 relatives;

231 (9) Nothing in this section shall deprive an adopted person who is
232 the biological child of a veteran who served in time of war as defined
233 in section 27-103 of aid under the provisions of section 27-140 or
234 deprive a child receiving benefits under the Social Security Act, 42
235 USC Sec. 301 et seq., as amended from time to time, from continued
236 receipt of benefits authorized under said act;

237 (10) Except as provided in subdivision (11) of this section, the
238 provisions of law in force prior to October 1, 1959, affected by the
239 provisions of this section shall apply to the estates or wills of persons
240 dying prior to said date and to inter vivos instruments executed prior
241 to said date and which on said date were not subject to the grantor's
242 power to revoke or amend;

243 (11) The provisions of subdivisions (1) to (9), inclusive, of this
244 section shall apply to the estate or wills of persons dying prior to
245 October 1, 1959, and to inter vivos instruments executed prior to said
246 date and which on said date were not subject to the grantor's power to
247 revoke or amend, unless (A) a contrary intention of the testator or
248 grantor is demonstrated by clear and convincing evidence or (B)
249 distribution of the estate or under the will or under the inter vivos
250 instrument has been or will be made pursuant to court order entered
251 prior to October 1, 1991;

252 (12) No fiduciary, distributee of the estate, or person to whom a
253 legacy has been paid shall be liable to any other person for any action
254 taken or benefit received prior to October 1, 1991, provided any such
255 action was taken or benefit was received in good faith by such
256 fiduciary, distributee or legatee with respect to the applicability of
257 statutes concerning the rights of inheritance or rights to take of
258 adopted persons under any instrument executed prior to October 1,
259 1959;

260 (13) No fiduciary shall have the obligation to determine the rights of
261 inheritance or rights to take of an adopted person under an instrument
262 executed prior to October 1, 1959, unless the fiduciary receives a
263 written claim for benefits by or on behalf of such adopted person.

264 Sec. 4. (NEW) Nothing in this act shall be deemed to amend or
265 modify any other provision of the general statutes with respect to
266 marriage.

JUD Committee Vote: Yea 27 Nay 13 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Potential Minimal Revenue Increase (non General Fund)

Affected Agencies: Probate Court (Judicial Department)

Municipal Impact: None

Explanation**State Impact:**

The bill permits adoption by any person sharing parental responsibility for a minor child with the parent of the child. Passage of the bill would result in a potential minimal increase in revenue for the Probate Court Administration Fund (PCAF) as a result of increased applications to the court. It is projected that there are over 100 cases currently awaiting the passage of such legislation. The current application fee is \$150.

The PCAF is used to pay the expenditures of the probate court system, including judges' salaries. There are currently 133 courts.

OLR Bill Analysis

sHB 5830

AN ACT CONCERNING THE BEST INTEREST OF CHILDREN IN ADOPTION MATTERS.**SUMMARY:**

This bill allows someone who shares parental responsibility for a child with the child's parent to adopt or join in the adoption of the child even though the two adults are not married. For the probate court to approve the adoption it must find it to be in the child's best interest, and the adoption must include the normal procedures, including an agency home study, that govern most adoptions.

The bill also states that its provisions cannot be deemed to modify or amend any of the state's marriage laws.

EFFECTIVE DATE: October 1, 2000

ADOPTION PROVISIONS***Who May Give a Child in Adoption***

In so-called stepparent adoptions, current law allows the parent of a minor child (under age 18) to agree in writing with his or her spouse to adopt or join in adopting the child if that parent is:

1. the child's surviving parent and the other has died;
2. his mother and the child was born out of wedlock (provided any father who has been notified has had his parental rights terminated);
3. a former single person who adopted him and later married; or
4. the child's sole guardian, if the other parent's parental rights have been terminated.

The bill deletes this specific list, and allows the minor child's parent to

agree in writing, not only with a spouse but also with any other person who shares parental responsibility for the child, to adopt or join in adopting the child. This can occur only if the parental rights of anyone other than the parties to the agreement have been terminated. All of the situations in the deleted list would continue to be covered under the new general language.

Adoption Process

The bill authorizes the probate court to accept an adoption application from a person sharing parental responsibilities, thus allowing the adoption to proceed following the normal probate court procedure. Another statute, unchanged by the bill, waives the requirements for an investigation and report (home study) for stepparent adoptions. But the new provision governing people sharing parental responsibilities does not fall within this exception, so in these cases an investigation and report will have to be done. And, as in all adoptions, the probate court will have to find that the adoption is in the child's best interest.

Effect of Final Adoption Decree

The statutes contain a list of the legal effects of an adoption decree. The bill exempts stepparent and shared-parental-responsibility adoptions from three of these. They are the ones relating to (1) the legal relationship between the adopted child and his biological parents and relatives, (2) the rights of inheritance between the biological parents and the adopted child, and (3) the legal relationship as construed in legal documents and instruments between the adopted person and his biological parents. The apparent intent of these exemptions is to take into consideration that in some of the circumstances covered by the bill, biological parents will still be involved with the child and their relationship should not be severed.

BACKGROUND

Related State Supreme Court Case

In the case of *In Re the Adoption of Baby Z* (247 Conn. 474 (1999)) the state Supreme Court was asked to rule on long and complex legal case involving the attempts of a mother to have her same-sex partner jointly

adopt her child. The issue was who could give a child in adoption, and an attempt was made to obtain a waiver from the Adoption Review Board and have the adoption proceed as a stepparent adoption. The court held that the Adoption Review Board's waiver authority was limited to statutory parent adoptions, where the child is being placed either by DCF or a child-placing agency, and that it did not extend to stepparent adoptions.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 27 Nay 13